

EXPLANATORY STATEMENT

Issued by Authority of the Minister for Agriculture and Water Resources

Agricultural and Veterinary Chemicals (Administration) Act 1992

Agricultural and Veterinary Chemicals (Administration) Amendment (Carbofuran and Trichlorfon) Regulations 2018

The *Agricultural and Veterinary Chemicals (Administration) Act 1992* (the Act) establishes the Australian Pesticides and Veterinary Medicines Authority as the national registration authority to administer such laws of the Commonwealth or of the States and Territories relating to agricultural and veterinary chemical products.

Section 73 of the Act provides that the Governor-General may make regulations prescribing matters required or permitted to be prescribed by the Act, or necessary or convenient to be prescribed for carrying out or giving effect to the Act.

Section 69C of the Act provides that if an active constituent is the subject of an international agreement or arrangement prescribed for the purposes of the section, certain activities – importation, manufacture, use or other dealings, or export - may be prohibited absolutely or subject to conditions or restrictions as are prescribed.

The *Agricultural and Veterinary Chemicals (Administration) Amendment (Carbofuran and Trichlorfon) Regulations 2018* (the Regulations) add the pesticides carbofuran (Chemical Abstracts Service (CAS) Registry Number 1563-66-2) and trichlorfon (CAS Registry Number 52-68-6) to Schedule 1 to the *Agricultural and Veterinary Chemicals Administration Regulations 1995* (the Principal Regulations) in order to regulate the conditions of exportation of carbofuran and trichlorfon from Australia.

In 2017, carbofuran and trichlorfon were added to Annex III of the *Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade* (the Rotterdam Convention). The Regulations update the conditions for export of carbofuran and trichlorfon to enable Australia to meet its obligations as a party to the Rotterdam Convention.

The Rotterdam Convention is an international treaty promoting shared responsibilities and cooperative efforts in the international trade of certain hazardous chemicals. It creates legally binding obligations for implementing the Prior Informed Consent (PIC) procedure. Annex III of the Rotterdam Convention contains a list of chemicals that are subject to the PIC procedure. The PIC procedure aims to ensure that countries do not export listed chemicals to other countries that have not provided their consent to receive them. It does not require chemicals to be banned or phased out and does not alter domestic regulatory decisions on the chemicals. Australia fulfils the Convention's pesticide export obligations via a permit system administered by the Department of Agriculture and Water Resources (the department).

To ensure Australia meets its obligations under the Rotterdam Convention, the Regulations add carbofuran and trichlorfon to Part 2 of Schedule 1 to the Principal Regulations to regulate its exportation from Australia. Specifically, as a result of the Regulations, the export of

carbofuran and trichlorfon is prohibited except with written permission of an authorised officer of the department.

The amendment of the Convention required a minor treaty action under Australia's domestic treaty-making process which was managed by the Department of the Environment and Energy (DoEE) (as the Official Contact Point for the Rotterdam Convention). The Joint Standing Committee on Treaties endorsed the treaty action on 26 March 2018.

It is not anticipated that there will be any adverse impact or effect from adding carbofuran and trichlorfon to Part 2 of Schedule 1 to the Principal Regulations. Currently only two products registered in Australia contain carbofuran and only six products registered in Australia contain trichlorfon.

Prior to the listing of carbofuran and trichlorfon under Annex III to the Convention, DoEE consulted with a range of stakeholders including: thirteen Australian Government agencies; relevant State and Territory Government agencies in all jurisdictions; seven industry bodies and six non-government organisations.

The Office of Best Practice Regulation (OBPR) was also consulted in the preparation of the Regulations. The OBPR advised that that the minor treaty action is likely to have a minor regulatory impact on business, community organisations and individuals, and that a regulation impact statement is not required (OBPR ID 23484).

Details of the Regulations are set out in [Attachment A](#).

The Regulations are compatible with the human rights and freedoms recognised or declared under Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*. A full statement of compatibility is set out in [Attachment B](#).

The Regulations are a legislative instrument for the purposes of the *Legislation Act 2003*.

Details of the *Agricultural and Veterinary Chemicals (Administration) Amendment (Carbofuran and Trichlorfon) Regulations 2018*

Section 1 – Name

This section provides that the name of the Regulations is the *Agricultural and Veterinary Chemicals (Administration) Amendment (Carbofuran and Trichlorfon) Regulations 2018*.

Section 2 – Commencement

This section provides for the Regulations to commence the day after the instrument is registered.

Section 3 – Authority

This section provides that the Regulations are made under the *Agricultural and Veterinary Chemicals (Administration) Act 1992*.

Schedule 4 – Schedules

This section provides that the Regulations are amended as set out in the applicable items in the Schedule.

Schedule 1 – Amendments

Item 1 inserts an additional item after Item 4 of Part 2 of Schedule 1 of the *Agricultural and Veterinary Chemicals (Administration) Regulations 1995*. The new item, 4A lists the chemical carbofuran and its IUPAC name (2,3-dihydro-2,2-dimethylbenzofuran-7-yl methylcarbamate) and CAS number (1563-66-2). Item 4A identifies that the carbofuran is not a prescribed active constituent or chemical product. Item 4A further identifies that the export of carbofuran is prohibited except with written permission. It identifies the Rotterdam Convention as the relevant international agreement or arrangement.

Item 2– inserts an additional item, at the end of Part 2 of Schedule 1 of the *Agricultural and Veterinary Chemicals (Administration) Regulations 1995*. The new item, 79, lists the chemical trichlorfon, its IUPAC name (dimethyl (RS)-2,2,2-trichloro-1-hydroxyethylphosphonate) and CAS number (52-68-6). Item 79 identifies that the trichlorfon is not a prescribed active constituent or chemical product. Item 4A further identifies that export of trichlorfon is prohibited except with written permission. It identifies the Rotterdam Convention as the relevant international agreement or arrangement.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Agricultural and Veterinary Chemicals (Administration) Amendment (Carbofuran and Trichlorfon) Regulations 2018

This Legislative Instrument is compatible with the human rights and freedoms recognised or declared in the international instruments listed in Part 3 of the *Human Rights (Parliamentary Scrutiny) Act 2011*.

Overview of the Legislative Instrument

This Legislative Instrument amends the *Agricultural and Veterinary Chemicals (Administration) Regulations 1995* (the Principal Regulations) to ensure that they are consistent with Australia's obligations with respect to the export of carbofuran and trichlorfon under the *Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade*.

The amendments to the Principal Regulations add carbofuran and trichlorfon to Schedule 1. These pesticides are considered to have adverse effects on human health and the environment.

Human rights implications

This Legislative Instrument does not engage any of the applicable rights or freedoms.

Conclusion

This Legislative Instrument is compatible with human rights as it does not raise any human rights issues.

**The Hon. David Littleproud MP
Minister for Agriculture and Water Resources**